IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

LA. App. No. 236 of 2005(D) &
CROSS OBJECTION NO. 11 OF 2007

LAR.279/1999 of SUB COURT, THALASSERY
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APPELLANT/RESPONDENT:

THE MANAGING DIRECTOR,
KSIDC, THIRUVANANTHAPURAM.

BY ADV. SRI. JOBY.CYRIAC

RESPONDENTS/CLAIMANTS:
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1. **SPECIAL THAHASILDAR,**
   L.A., THALASSERY.

2. **K. PREMCHAND, GOVINDA BHAVAN,**
   MANANTHERI P.O., KUTHUPARAMBA.

3. **K. SNEHALATHA, DO.DO.**

BY ADV. SRI.C.VALSALAN
SRI.C.DEVARAJAN
SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/06/2007 ALONG WITH LAA NO. 559 OF 2005 & CO NO.7 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ.

L.A.App. No. 236 OF 2005 &
CROSS OBJECTION No. 11 OF 2007

L.A.App. No. 559 OF 2005 &
CROSS OBJECTION No. 7 OF 2007

Dated this the 8th day of June, 2007.

J U D G M E N T

Kurian Joseph, J.

These appeals and cross objections are against the judgment and decree in L.A.R. Nos. 279 and 323 of 1999 on the file of Additional Sub Court, Thalassery. Acquisition is for the purpose of laying pipeline for the industrial growth centre. Section 4(1) notification, going by the date as furnished by the appellant, was on 29.04.1997. The Land Acquisition Officer awarded compensation at the rate of Rs. 980/- per cent. Reference Court has fixed the value at the rate of Rs. 1,500/- per cent.

2. On the side of the claimants, Exhibit A1 document was produced and AW1 was examined. A commission had been taken out and Exhibit X1 is the Commissioner's Report. There is no evidence on the part of the respondents.

3. Advocate Commissioner reported that the land value would be Rs. 7,000/- per cent in view of the importance of the

locality. AW1 also has tendered evidence on entitlement for higher value. The Reference Court found that Exhibit A1 is a pre-notification document and the land is situated in the same village. The extent of land is 21.25 cents. The value shown is Rs. 85,000/-. However, no reliance was placed on the said document because the Advocate Commissioner has not seen the said property and has not made any comparison with the acquired land. While fixing the land value at the rate of Rs. 1,500/- per cent for garden land, reference and reliance was placed on Exhibit A1 document of the same village. Exhibit A1 has provided for land value at the rate of Rs. 4,000/- per cent. It is a pre-notification document. The notification is in 1997 and the document is in 1995. There is no contra evidence either for the Acquisitioning authority or for the Requisitioning authority. On what basis the land value is fixed at the rate of Rs. 1,500/- per cent for garden land is not clear. Apparently there is no dispute that the reliance placed in both cases is garden land.

4. According to the Advocate Commissioner, the property covered by L.A.R. No. 279/1999 is situated 1.2KM south of

Mananthery sathram and a tarred road passes through the property. It is also situated in a residential area. There is a school around 600 metres away from the property and the industrial growth centre is around 2 KMs from the property. The Commissioner further reported that on enquiry from the people of the locality, the land value would come to Rs. 7,000/- per cent.

5. As far as property covered by L.A.R. No. 323/1999 is concerned, report of the Advocate Commissioner is that the same is situated at about 600 metres from the 14th mile on the state highway and there is motorable mud road from the highway. The property is also reported to be located in a thickly populated area and there is only 1.5 KMs from Chittariparamba town. There are also schools, banks and shops within 500 metres. In that area also, according to the Commissioner, the market value is Rs. 7,000/- per cent. AW1 has tendered evidence to the effect that the property covered by L.A.R. 279/1999 is situated very near to Thalassery Bavali state highway and there are Cooperative Banks, several establishments and educational institutions within 1 KM. As far as property acquired in

L.A.R. No. 323/1999 is concerned, it is stated by her that the property is situated on the side of Panatharamba Thonambra road. L.P. School, health centre, Gramin Bank, Post Office, U.P. School, High School etc. are situated within 500 metres.

6. According to AW1, the property would fetch around Rs. 50,000/- per cent. On Exhibit A1 document, AW1 stated that the land value is Rs. 4,000/- per cent and that it is a genuine document and not executed between relatives. The respondents have not adduced any evidence so as to upset the evidence tendered by AW1 and also the value as indicated in the Commissioner's report as well as the value that has come out in the evidence of AW1. Even according to the Reference Court, the land value awarded by the Land Acquisition Officer is low. As already observed, fixation of Rs. 1,500/- per cent for garden land is made solely based on the value shown in Exhibit A1 stating that "land value cannot be as low as that can be seen from Ext. A1 document, which is a land in the same village". We do not find any justification for the Reference Court in not having placed any reliance on the unchallenged evidence of AW1 and

also the evidence as obtaining from Exts. A1 and X1.

For all the above reasons, we dismiss the appeals filed by the requisitioning authority and allow the cross objections where the value for the purpose of court fee is limited to Rs. 2,500/- per cent. We hold that the claimants will be entitled to have the market value fixed at the rate of Rs. 2,500/- per cent along with all statutory benefits.

KURIAN JOSEPH
JUDGE

T.R. RAMACHANDRAN NAIR
JUDGE

smp